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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,858	10/17/2003	Daniel L. Dunn	069090.1	9455

34663 7590 11/28/2006
MICHAEL J. BUCHENHORN
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EXAMINER

LE, LINH GIANG

ART UNIT PAPER NUMBER

3626

DATE MAILED: 11/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/688,858	Applicant(s) DUNN ET AL.	
	Examiner Linh-Giang Le	Art Unit 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 September 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>9/11/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Notice to Applicant

1. The communication is in response to the amendment filed 9/11/06. Claims 1-10 are pending.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-10 rejected under 35 U.S.C. 103(a) as being unpatentable over Robertson(2004/0024620) in view of Bienvenu(2002/0188476).

4. As per claim 1, Robertson teaches a method for assessing risk the method comprising (Robertson; Abstract):

receiving demographic data (Robertson; Pg. 2, Para. 27);

assigning the data to at least one risk group (Robertson; Pg. 4, Para. 64);

storing risk data for the patient (Robertson; Pg. 4, Para. 65);

calculating a risk score for the patient based upon the risk data and the

demographic data of the patient (Robertson; Pg. 4, Para. 54).

Robertson does not expressly teach using prescription data for a patient.

However this is well known in the art as evidenced by Bienvenu. In particular, Bienvenu teaches screening prescription history of an insurance applicant (Bienvenu; Pg. 1, Para. 17). It would have been obvious to add this feature to the Robertson method with the motivation of having an effective system and method for assessing prescription drug history information stored in the databases, processing the information and incorporating the information in the insurance process (Bienvenu; Pg. 1, Para. 7)

5. As per claims 2-9, Robertson teaches assigning data to at least one risk group and using risk marker's to calculate a risk score (Robertson; Pg. 2 Para. 27 and Pg. 4 Paras. 54 and 65). Robertson does not expressly teach using prescription data.

However this is well known in the art as evidenced by Bienvenu. IN particular, Bienvenu teaches:

using national drug codes to classify each prescription. (Bienvenu; Fig. 5 and Pg. 5, Paras. 42 and 43);

categorizing each national drug code classification into one of a number of pharmacy risk groups (Bienvenu; Fig. 5 and Pg. 5, Paras. 42 and 43);

defining additional member risk markers based on patient age and other characteristics known to indicate that the patient belongs to a high risk category and using the additional member risk markers to calculate the patient's risk score. (Bienvenu; Pg. 1, Para. 4);

providing a clinical and demographic risk profile for the patient based on the patient's age, gender and a mix of clinical and demographic risk profiles and using the patient's clinical and demographic risk profile to calculate the patient's risk score (Bienvenu; Pg. 1, Para. 4 and Pg. 5, Para. 43).

providing multiple patient risk markers for patients with pharmacy services that indicate multiple medical conditions (Bienvenu; Fig. 5);

each risk group is assigned a numerical risk value based upon the patient's demographic data, and the patient's risk score is the sum of the numerical risk values of the risk groups in the patient's risk data (Bienvenu; Pg. 5; Para. 43);

wherein the risk score is computed using pre determined weights and a patient's patient risk marker profile (Bienvenu; Pg. 5, Para. 43);

wherein the pharmacy risk groups comprise patient risk markers (Bienvenu; Pg. 5, Para. 43).

It would have been obvious to add this feature to the Robertson method with the motivation of having an effective system and method for assessing prescription drug history information stored in the databases, processing the information and incorporating the information in the insurance process (Bienvenu; Pg. 1, Para. 7)

6. Claim 10 repeats the limitations of claim 1 and the reasons for rejection are incorporated herein.

Response to Arguments

Applicant's arguments with respect to claim 1-10 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Linh-Giang Le whose telephone number is 571-272-8207. The examiner can normally be reached on 8 AM - 5PM, M-F.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-3600. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


LLe
C. LUKE GILLIGAN
Primary PATENT EXAMINER